File No. O. Payment of Taxes (T. of P.) 4
Legal Department-
A BRANCH

Subject:— Opinions under the Payment of Taxes (Transfer of property) ordinance 1948

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2.	D.I.No. 4030/2-4-40 O.No. 3000/3-4-40.	Whether a document presented for registration during the continuance of the ordinance but legal pending for production of income-tax certificate and those presented after the expiration of the ordinance can be registered.	5-8.

[illegible]

[illegible] dated 4-6-40.

12/C

Please see letter from Collr. B.S.D.No.

pp.3-4 ante. R.T.S. D.I. dated 18.11.48, in which the questions raised by the Mamlatdar, South Salsette, are these:

(1) Whether his presumption that oral transactions regarding non-agricultural plots should not be recognised for the purpose of Record of Rights unless such transactions are accompanied by a certificate of the Taccavi-tax authorities as required by Sec. 2 of the Payment of Taxes(Transfer of Property) Ordinance, 1948, is correct:

(2) Whether the provisions of the said Ordinance are applicable to agricultural lands held by non-agriculturalists: and

(3) Whether the Ordinate is applicable to vacant plots in the T.P.Schemes and D.P.Schemes

The questions have been considered by the Commr., N.D. and his view on respective points is as follows:-

(1) ~~The Ordinance excludes agricultural lands~~

(1) The Ordinance refers to documents and not to oral transaction; the presumption is not therefore, correct.

(2) The Ordinance excludes agricultural lands;

(3) The plots in the D.P.Schemes are disposal of as N.A.plots: They should be treated as such. The plots in T.P.Schemes may be either agricultural or non-agricultural. The agricultural plots should be excluded from the operation of the Ordinance.

SC dated 4-6-'56.

<u>Plea of the R.L.A.</u>

The view taken by the Commissioner, M.D., on all the three points is correct. It may further be stated that even though the Ordinance XXI of 1948 has an application to oral transactions, such transactions cannot be recognised in the Record of Rights provided they fall under clause (a), clause (b), clause (c) or clause (e) of section 17(1) of the Indian Registration Act, 1908, as they are compulsorily registrable.

P.M.LAD.
O.C.
Remembrancer of Legal Affairs.

U.O. to R.D. No. 3902, dated the 4th March 1949

Issued

C.S.P.
4/3

MM

SC dated 4-6-'56.

L.D.B.I. No. 4930/2-6-49.

Submitted.

Please see B.D. note at pp. 43-44 ante. The p.35 ante Inspector General of Registration, Poona states that the period of the Payment of Taxes (Transfer of Property)Ordinance, 1948, has expired on 6-2-1949 and the question has arisen whether (1) a document presented for registration during the continuance of the Ordinance but kept pending for production of incumbrance certificate, and (2) those presented after the expiration of the Ordinance, can now be registered without the production of the requisite certificate required under the Ordinance. The I.G.R. is of the view that in the case of (1) persons can be asked to produce certificates and in (2) the sub-Registrar's have been allowed to accept documents without certificates Govt. of India have stated in their telegram that although the Ordinates has expired a bill is introduced in the Central Legislature and likely to be a law soon (p.41). The B.L.A. is requested to advise in the matter.

MM

S C dated 4-6-'50.

Office of the R.L.A.

Since the Payment of Taxes (Transfer of Property) Ordinance, 1948, came into force on the 6th August 1948 it c ceased to be in force with effect from 5th February 1949, six months after its promulgation (see section 42 of the Government of India Act, 1935). It is clear therefore that any documents presented for registration before 5-2-1949 will require to be certified by Inspecting Assistant Commissioner of Income-tax but those presented after that date will not require such certificates. (Cf. R.L.A.'s No. 4307, dated 4-5-48). Since the Government of India has already introduced a Bill in the Central Legislature, it would be advisable for the Revenue Department to await further instructions in the matter from that Government.

P.M.LAD.
O.C. 8/4
Remembrancer of Legal Affairs.

U.O. to R.D., No 3038, dated the 8th April 1949.

Issued

C.S.F.
8/4

[redacted]

60 dated 4-6-'56.